

Memorandum of Understanding

This Memorandum of Understanding (hereinafter "Agreement") is made this ____ day of _____, 1999, by and between the County of Placer and the United Auburn Indian Community.

RECITALS

WHEREAS, the historical existence of a separate, cohesive band of Maidu and Miwok Indians, occupying a village on the outskirts of the City of Auburn in Placer County (hereinafter "County"), which survived the gold rush and subsequent settlement of Placer County by non-Indians, has been documented by the United States Department of the Interior; and

WHEREAS, in 1917 the United States acquired land in trust for the Auburn Band near the City of Auburn and formally established a reservation there, known as the Auburn Rancheria, on which tribal members continued to live as a community despite great adversity; and

WHEREAS, in 1953, as part of a federal policy designed to assimilate the nation's Indians, the United States Congress enacted the Rancheria Act, P.L. 85-671, authorizing the termination of federal trust responsibilities to a number of California Indian tribes, including the Auburn Band; and

WHEREAS, in 1967 federal recognition of the Auburn Band was terminated and, with the exception of a 2.84 acre parcel containing a tribal church and a park, the lands comprising the Auburn Rancheria in Placer County was sold off to individuals; and

WHEREAS, in 1970 President Nixon issued a formal policy statement on Indian affairs in which he declared the policy of termination a failure and called upon Congress to repudiate it, Cong.Rec. 23258;

WHEREAS, in 1978, Congress enacted the Indian Self Determination Act, 25 U.S.C. §450, *et seq.*; and

WHEREAS, pursuant to the federal policy of Indian Self-Determination, in 1991 surviving members of the Auburn Band and their lineal descendants reorganized their tribal government as the United Auburn Indian Community (hereinafter the "Tribe") and requested the United States to formally restore their federal recognition; and

WHEREAS, in 1994, in the Auburn Indian Restoration Act, 25 U.S.C. 1300*l*, *et seq.*, Congress restored federal recognition to the Tribe and explicitly provided for the acquisition by the United States of "any land located in Placer County" to be held in trust for the Tribe to establish a new reservation; and

WHEREAS, in 1997, following consultations with County officials and community organizations for the purpose of identifying potential new reservation locations that would meet the community, economic development and residential needs of the Tribe, while being compatible with surrounding land uses, minimizing adverse impacts on County services and residents, and were located at least two miles away from any churches, schools or residentially zoned districts, the Tribe selected and obtained options to purchase two parcels of land in unincorporated areas of Placer County, in addition to the 2.84 acre parcel of former trust land containing a Tribal church and park; and

WHEREAS, in 1997, the Tribe initiated the federal environmental review process necessary to comply with the National Environmental Policy Act, as a first step to taking said parcels into trust; and

WHEREAS, the Tribe has now requested the County's support of a request to the Bureau of Indian Affairs to take these parcels into trust, and in consideration for such support the Tribe has offered to enter into an agreement with the County before any land goes into trust, which would provide the County with certain land use, law enforcement and related jurisdiction over the Tribe's

trust lands, as well as compensation to the County for the impact of the Tribe's uses of these parcels on County services; and

WHEREAS, the proposed action of the Tribe is not a County project and is not a project subject to the discretionary approval of the County, and therefore is not subject to the California Environmental Quality Act (CEQA).

WHEREAS, the County would not otherwise have any jurisdiction over the Tribe's trust lands nor receive any compensation for the impacts such transfer of jurisdiction would cause; and

WHEREAS, the County is prepared to support the Tribe's trust acquisition request to the United States if the Tribe enters into an enforceable agreement to comprehensively mitigate all the impacts of this acquisition, including, but not limited to, conforming to certain specific land use restrictions identified in County ordinances; mitigating environmental impacts of its planned uses of the trust land as identified in an environmental impact report conducted pursuant to a process that substantially complies with the County's environmental review ordinance; compensating the County for law enforcement and other public services to be provided on the Tribe's reservation lands; paying development and processing fees and conforming to certain building and design standards set out in County ordinances;

NOW, THEREFORE, the parties agree as follows:

1. Land to be Taken into Trust. The Tribe has requested the United States to take into trust for its benefit the parcel identified in subsection B below, and plans to make similar requests for the parcels described in subsections A and C below. The Tribe agrees to request the United States to take into trust for its benefit only these three parcels detailed in Exhibits A, B and C, appended hereto, (hereinafter "Trust Lands"), and to use said parcels exclusively for the purposes and subject

to the restrictions set out below, unless and until this Agreement is amended as provided herein to authorize any other trust acquisition.

A. Parcel A. An 1100 acre parcel to be used only for residential and community purposes for members of the Tribe and their families, precluding any Class II or Class III Gaming on this parcel.

B. Parcel B. A 58.3 acre parcel to be developed and used for the operation of a facility for Class II and/or Class III Gaming in conformity with the requirements of the federal Indian Gaming Regulatory Act, 25 U.S.C. 2701, et seq., this Agreement and all other applicable state or federal laws, including the State Constitution, as well as gaming related uses, so long as such related uses are consistent with State law and intended primarily to facilitate said operation and enclosed within the facility.

C. Parcel C. A 2.84 acre parcel to be used for cultural, religious and recreational purposes only by Tribal members and their families, precluding any Class II or Class III Gaming on this parcel.

2. Compliance with County Ordinances. The Trust Lands identified in Exhibits A and B, and any new structures and changed uses on Parcel C, shall be used and developed in a manner consistent with and in compliance with all applicable Placer County general and community plans, zoning ordinances and design guidelines in effect at the time of the execution of this Agreement. Any future changes, additions or modifications in the use or development of the parcels shall be subject to the County environmental review process and ordinances, County Plans, and County development standards, design guidelines and fees in effect at the time of the change.

3. Environmental Review. Prior to the development of the Trust Lands, or the use of said lands for any purpose by the Tribe,

A. The Tribe's applications are not governed by CEQA, and the Tribe does not agree to submittal of its projects for discretionary approvals by the County. However the Tribe does agree to process all its development applications for review by the County staff to determine compliance with an environmental review that substantially complies with the process set out in the California Environmental Quality Act, as incorporated in the Placer County Environmental Review Ordinance and the Placer County Land Development Manual; and

B. The Director of the Placer County Planning Department only shall determine that the Tribe has complied with the terms of this Section 3; provided that the Director shall not unreasonably withhold said determination.

4. Reimbursement for Law Enforcement Services and Scope of Sheriff's Jurisdiction on Trust Lands. As a matter of federal law, P.L. 280, most state criminal laws continue to apply on Indian trust lands, including Parcels A, B and C, and the Placer County Sheriff's Office retains jurisdiction over the enforcement of those laws. The parties recognize that the gaming facility the Tribe intends to develop and operate on Parcel B will necessitate an increased presence by the Placer County Sheriff's Office in the area of that Parcel, and that there is a related need to clarify the scope of the Sheriff's jurisdiction over both gambling and other State laws. The parties have agreed that, initially, based on the size of the Tribe's proposed gaming facility and the projected number of patrons and employees, the addition of five new deputy positions and one patrol vehicle will reasonably address this need.

A. Reimbursement for Law Enforcement. Effective on the date that final certification is submitted to the County pursuant to Section 13, the Tribe shall reimburse the Placer County Sheriff's Office, on a quarterly basis, an annual sum of four hundred fifty

eight thousand and eighty nine dollars (\$458,089.00). The parties agree that this sum will enable the Sheriff's Office to add five new deputy positions and one patrol vehicle and represents reasonable compensation for additional burdens undertaken by the Sheriff's Office with respect to the enforcement of state law on Parcel B. This sum shall be subject to annual review for appropriate adjustments based on the experience of the parties at the Tribe's gaming facility and consistent with then current costs of the County of Placer to provide these services. This figure shall not be reduced unless agreed to by the County of Placer.

- B. Scope of Sheriff's Jurisdiction. The Sheriff shall have authority to enforce all state criminal laws on Trust Lands, including the Parcel identified in Exhibit B, except state gambling laws, in the same manner and to the same extent as the Sheriff has such jurisdiction elsewhere in the County; provided that prior to entering any gaming facility on the Trust Lands identified in Exhibit B, for the purpose of investigating or enforcing state criminal laws, the Sheriff's Office shall notify the Tribe's public safety or security director, if any, and shall coordinate and cooperate with appropriate Tribal officers, if any, except when, in the good faith and reasonable judgment of the law enforcement officers involved, their safety, or the safety of patrons or employees of the facility, or the integrity of an investigation or enforcement action, would be materially compromised by doing so.

5. Fire Protection and Emergency Response Services. The Tribe recognizes that significant fire protection and emergency response services will be required by the Tribe's proposed developments of Parcels A and B, and that the scope of said services will be detailed in the mitigation called for by the Placer County Environmental Review Ordinance, as determined by the

Director of the Placer County Planning Department under Section 3 B above. The parties, however, have agreed to the general parameters of this mitigation for Parcel B as follows:

A. The Tribe shall: (1) provide a fire station of adequate size to reasonably address fire and emergency response needs on Parcel B, to be located on the western end of the Parcel with direct access to Athens Avenue; (2) reimburse the County for employment of one fire captain and one firefighter position on a 24 hour per day basis to meet the additional burdens undertaken by the Placer County Fire Department in a fixed amount of \$450,000.00 annually for the duration of the term of this Agreement. Any increase in County expenses for providing this service shall not be chargeable to the Tribe.

B. The County shall provide all of the fire apparatus and equipment necessary to operate and respond from the Tribe's station.

6. Roads and Traffic Circulation. The Tribe will mitigate traffic and circulation issues in conformity to Placer County requirements as finalized through the process discussed in Sections 2 and 3. The Tribe agrees to pay all required traffic mitigation fees consistent with County fee programs/ordinances which include fees for the Sunset Industrial Area, fees related to any required improvements for the railroad crossing on Sunset near Highway 65; provided that the Tribe shall not be required to pay any fees for the development of the Sunset interchange which would not customarily be required of a non-tribal developer. The Tribe further agrees to the improvements discussed in Attachment E.

7. Sewer and Water Service.

A. The Tribe shall provide for sewage and disposal for Parcel B through either of the following means:

- (1) Connection to the City of Lincoln's existing sewage treatment plan initially, and then the City's proposed new regional treatment plan, according to terms and conditions agreed to by the City of Lincoln, the County and the Tribe;
 - (2) Connection to the existing Placer County sewage collection system, according to the terms and conditions agreed to by the County and the Tribe;
 - (3) An independent sewage treatment plant constructed by the Tribe on Parcel B to standards and operating procedures approved by the Placer County Department of Facility Services, said approval not to be unreasonably withheld.
- B. If services are provided under subsection A(1) or A(2) of this Section, the Tribe will annex to the County Service Area for sewer service and pay fees consistent with that annexation, pay appropriate connection fees, obtain required easements for sewer infrastructure, construct to City or County sewer infrastructure standards, and dedicate to the City or County such sewer infrastructure.
- C. No use shall occur on Parcel B until sewer service is completed, inspected and approved pursuant to this Section and Sections 2 and 3.
- D. All approvals referred to in this Section shall not unreasonably be withheld, and the standards referred to in this Section shall be substantially identical to those applied to similarly situated users.

E. Water Supply. The Tribe shall use its best efforts to obtain surface water supply for Parcel B through an agreement with either the Placer County Water Agency ("PCWA"), the City of Lincoln or another water district and shall conform to all standard requirements imposed by the water provider. If approval cannot be obtained, the Tribe shall provide water for Parcel B with wells.

8. Employment of Welfare Recipients. The Tribe shall work in good faith with the County's Human Services Department, at its request, to employ qualified participants in the County's Welfare to Work Program at the Tribe's gaming facility.

9. Problem Gambling. The Tribe shall make a contribution of no less than \$50,000.00 per year to the California Council on Problem Gambling, or any successor organization or similar organization dedicated to the same purpose, agreed upon by the parties. Of the \$50,000.00 contribution, \$45,000.00 shall be specifically directed for use in Placer County to address problem gambling issues as determined by Placer County.

10. Protection of Open Spaces. The Tribe and County have a mutual interest in protecting open space in Placer County to preserve the natural and scenic qualities of Placer County, which distinguish it from other rapidly developing regions of the State. To achieve this objective, the Placer County Board of Supervisors has established Placer Legacy, an eleven member Citizen Advisory Committee and Scientific Working Group to implement this initiative through, among other things, purchase of conservation easements and transfer of development credits. In order to support these efforts, the Tribe shall, beginning one year after the certification date referred to in Section 13, make an initial contribution of \$25,000 to Placer Legacy, increase that contribution by

\$25,000 each year until it reaches \$200,000.00 and maintain its annual contribution at that level for the duration of the term of this Agreement.

11. Reimbursement for Other Public Services. The Tribe shall provide reasonable reimbursement to the County, or other local jurisdictions, for the impact of providing public services including administrative impacts to said Trust Lands or to invitees of commercial facilities on said lands, including, where applicable, existing standard development and processing fees, schedules, rates and charges, assessed to other developers in Placer County, for fire, emergency medical, wastewater or other services and agrees to discuss with the County Department of Museums an agreement to promote and coordinate Tribal support for that department.

12. Impact on County Revenues. The Tribe shall compensate the County and local districts on an annual basis in lieu of property taxes for any revenue lost resulting from the removal of the Trust Lands from the tax rolls, including the value of all improvements and personal property consistent with the customary assessment procedures used by the County Assessor and consistent with the State Constitution, for any loss in sales tax revenue, and an annual payment of the equivalent of the Transient Occupancy Tax as would be applicable under state law and then current County ordinances, and subject to the customary auditing and collection practices utilized by the County.

13. Building Standards. The Tribe shall adopt the building standards set out in all Uniform Building Codes, as adopted or supplemented by the County, and prior to the use of any structure constructed on the Trust Lands, provide the County, at its own expense, with written certification from the International Conference of Building Officials that said structures have been constructed in accordance with said standards. The Tribe shall submit construction plans to the County after the final certification is submitted pursuant to this Section 13, provided that the County

shall, consistent with State law, keep such plans confidential in light of the interest of the parties in maintaining the security of the casino facility.

14. Dispute Resolution:

A. Meet and Confer Process. In the event the County or the Tribe believes that the other has committed a possible violation of this Agreement, it may request in writing that the parties meet and confer in good faith for the purpose of attempting to reach a mutually satisfactory resolution of the problem within fifteen (15) days of the date of service of said request; provided that if the complaining party believes that the problem identified creates a threat to public health or safety, the complaining party may proceed directly to arbitration as provided in Subsection E below.

B. Notice of Disagreement. If the complaining party is not satisfied with the result of the meet and confer process, the complaining party may provide written notice to the other identifying and describing any alleged violation of this Agreement ("Notice of Disagreement"), with particularity, if available, and setting forth the action required to remedy the alleged violation.

C. Response to Notice of Disagreement. Within fifteen (15) business days of service of a Notice of Disagreement, the recipient shall provide a written response either denying or admitting the allegation(s) set forth in the Notice of Disagreement, and, if the truth of the allegations are admitted, setting forth in detail the steps it has taken and/or will take to cure the violations. Failure to serve a timely response shall entitle the complaining party to proceed directly to arbitration, as provided in Subsection E below.

D. Expedited Procedure for Threats to Public Safety. If the County or the Tribe reasonably believes that in violation of this Agreement the other's conduct has caused or will

cause a significant threat to public health or safety, resolution of which cannot be delayed for the time periods otherwise specified in this section, the complaining party may proceed directly to the Arbitration Procedures set out in Subsection E below, without reference to the Meet and Confer or Notice of Disagreement processes set out in Subsections A, B & C above, and seek immediate equitable relief. At least twenty-four (24) hours before proceeding in this manner, the complaining party shall provide to the other a written request for correction and notice of intent to exercise its rights under this subsection, setting out the legal and/or factual basis for its reasonable belief that there is a present or an imminent threat to public health or safety.

E. Binding Arbitration Procedures. Subject to prior compliance with the Meet and Confer process set out above in Subsection A, and the Notice and Response process in Subsections B and C, and except as provided in Subsection D, either party may initiate binding arbitration to resolve any dispute arising under this Agreement. The arbitration shall be conducted in accordance with the following procedures:

(1) The arbitration shall be administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules.

(2) The arbitration shall be held in Sacramento, California, unless otherwise agreed. The arbitrator shall be empowered to grant compensatory, equitable, and declaratory relief. The provisions of California Code of Civil Procedure section 1283.05 are incorporated into, and made a part of this Agreement; provided, however, that no discovery authorized by said section may be conducted without leave of the arbitrator, who shall decide to grant leave based on the need of

the requesting party and the burden of such discovery in light of the nature and complexity of the dispute.

(3) If either party requests an oral hearing, the arbitrator shall set the matter for hearing. Otherwise, the arbitrator shall decide whether to set the matter for hearing.

(4) The resulting award shall be in writing and give the reasons for the decision. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The costs and expenses of the American Arbitration Association and the arbitrator shall be shared equally by and between the parties unless the arbitrator rules otherwise.

15. Judicial Review. The parties consent to judicial enforcement of any award in arbitration, which enforcement shall be in the Superior Court for Sacramento County. Service of process in any such judicial proceeding is waived in favor of delivery of court documents by

Certified

Mail – Return Receipt Requested to the following:

FOR THE TRIBE:

Jessica Tavares
Tribal Chair
661 Newcastle Road, Suite 1
Newcastle, California 95658
Telephone: (916) 663-3720
Facsimile: (916) 663-3727

Howard Dickstein, Esq.
Dickstein & Merin
2001 P Street, Suite 100
Sacramento, California 95814
Telephone: (916) 443-6911
Facsimile: (916) 447-8336

FOR THE COUNTY:

Placer County Counsel
175 Fulweiler Avenue
Auburn, California 95603
Telephone: (530) 889-4044
Facsimile: (530) 889-4069

16. Waiver of Tribal Sovereign Immunity. The Tribe agrees to waive its sovereign immunity in favor of the County as to any dispute which arises out of this Memorandum of Understanding or the activities undertaken by the Tribe, pursuant to the terms set forth herein for enforcement. The Tribe's governing body shall execute a formal Resolution of Limited Waiver of Sovereign Immunity substantially identical to attached Exhibit F.

17. Attorneys Fees. In any arbitration or judicial action brought pursuant to the provisions of this Memorandum of Understanding, the prevailing party shall be entitled to recover reasonable attorneys fees and costs as are determined by the arbitrator or court.

18. Indemnification. The Tribe agrees to indemnify and defend the County of Placer, its agents or employees against any judicial or administrative claim brought or filed by any third party, including federal, state or local agencies which challenges the validity of or performance by Placer County under this agreement, the authority of Placer County to enter into this agreement, including the letter of support attached as Exhibit D, or any approval by Placer County called for in this Agreement.

19. Reimbursement to County for Certain Costs. The Tribe shall reimburse the County, on a monthly basis within thirty (30) days of billing, for the reasonable value of the actual time expended by County staff in performing its obligations and exercising its rights under Section 3 of this Agreement, including land development processing costs incurred to date.

20. Support for Trust Application. In consideration for the obligations undertaken by the Tribe herein, the County shall provide the attached correspondence, Exhibit D, to the United States Department of Interior, Bureau of Indian Affairs, which supports the application of the Tribe to the United States, and requests the United States to take the lands identified in Exhibits A, B and C into

trust for the benefit of the Tribe, and respond to inquiries about the Tribe's trust application from the Bureau of Indian Affairs in a manner that is consistent with Exhibit D. The County shall provide the Bureau of Indian Affairs with substantially similar letters for the parcels identified in Exhibits A and C when the Tribe requests those parcels to be taken into trust for the purposes set out in this Agreement.

21. Tribal County Advisory Committee. County and the Tribe agree to establish a permanent committee, to be known as the Tribal County Advisory Committee. The jurisdiction of the Committee shall include questions related to implementation of this Agreement, proposals for amendments to this Agreement, and concerns over any matter within the scope of this Agreement.

- A. Composition of Committee. The Committee shall be composed of two members of the Placer County Board of Supervisors or designees, the Sheriff of Placer County or his or her designee, one representative of a community organization established to address the local impacts of gambling as designated by the Placer County Board of Supervisors, and five representatives of the Tribe.
- B. Open Meetings. Committee meetings shall be open to the public, and Committee members may invite staff and associates as they deem appropriate to participate.
- C. Meeting Times. The Committee shall meet on a quarterly basis, or more frequently, according to procedures established by the Committee.
- D. Authority of Committee. The Committee may make recommendations to the Tribe and the County, including amendments to this Agreement, which both

parties shall consider before implementing any actions concerning the subject matter of this Agreement.

22. Amendments. This Agreement may be amended by mutual agreement of the parties and shall be amended prior to the acquisition of any land, in trust, by the Tribe not identified in Exhibits A, B or C.

23. No Third Party Beneficiaries. With the sole exception of Section 17 above, this Agreement is not intended to, and shall not be construed to, create any right on the part of a Third Party to bring an action to enforce any of its terms.

24. Successors in Interest. If local jurisdiction over the area in which any of the parcels identified in Exhibits A, B or C is located is transferred from Placer County to a local government other than Placer County, that local government shall have the right to succeed to the rights and obligations of Placer County under this Agreement by providing written notice to the Tribe of its intent to do so. Before such transfer, the County, the Tribe and the other local jurisdiction shall meet to discuss and resolve by amendment to this Agreement all issues of remaining impacts on County services or revenues as set out in this agreement that will or reasonably can be expected to continue after the transfer of responsibility.

25. Approval by the Department of the Interior. The parties shall submit this Agreement to the Department of the Interior for either (1) approval pursuant to 25 U.S.C. § 81, or (2) a written response that this Agreement does not require approval under 25 U.S.C. §81. The County's signature to this Memorandum of Understanding and the County's willingness to forward a letter in the form of attachment D is expressly contingent upon the approval called for in this paragraph, and the County reserves its right to withdraw its support for the application of the Tribe if this

Memorandum of Understanding is rejected by the Department of Interior as unacceptable and unenforceable.

WHEREFORE, IN WITNESS THEREOF, the parties hereby execute and enter into this Agreement with the intent to be bound thereby through their authorized representatives whose signatures are affixed below.

UNITED AUBURN INDIAN RANCHERIA

Jessica Tavares,
Tribal Chairperson.

Date

COUNTY OF PLACER

Robert Weygandt,
Chairman of the Board of Supervisors

Date

Approved by Counsel for the United Auburn
Indian Community

Date

Howard Dickstein, Esq.

Approved by Counsel for the County of Placer

Date

Anthony J. La Bouff, County Counsel

Attachment E

The Tribe agrees to construct a new two-lane road that runs parallel and west of Industrial Avenue that would connect Athens Avenue and Sunset Boulevard (as extended). The alignment of this new road is to be finalized through the development and environmental process discussed in Sections 2 and 3 above, and is generally described in the Sunset Industrial Community Plan. This alignment will require the Tribe to extend Sunset Boulevard westward to join this road addition. The Tribe agrees to obtain and dedicate to the County as County Highways any land required for the right-of-way for these road creations and extensions and to construct this road, at the Tribe's expense, to County road standards. The Tribe also agrees to other improvements required for this project as discussed in the engineering study provided by the Tribe's consultants to the County with the Tribe's application (Draft Traffic Impact Study for the Auburn Rancheria Gaming Facility dated June 1, 1999 as modified by comments of Dave Bingen, dated July 6, 1999), and consistent with any further reasonable requirements imposed by the Department of Public Works under Sections 2 and 3. All details for traffic and circulation improvements will be finalized through the land development and environmental review process set out in Sections 2 and 3 above. The County and the Tribe agree to address off site improvements discussed above and as required through the land development and environmental review process set out in Sections 2 and 3 consistent with the requirements under the Subdivision Map Act, and mutually agree to review and address as required any impacts from this development on Fiddymont Road, and the railroad crossing at Athens Avenue as identified by the Public Utilities Commission.

First Amendment to Memorandum of Understanding
(Emergency Services Agreement)

This First Amendment to Memorandum of Understanding (hereinafter "Amendment") is made this ____ day of _____, 2003, by and between the County of Placer and the United Auburn Indian Community ("Tribe").

RECITALS

WHEREAS, County and Tribe entered into that certain Memorandum of Understanding dated January 18, 2000 ("MOU"); and

WHEREAS, the MOU addresses, among other matters, the provision of fire and emergency services to the Tribe's proposed developments of Parcels A and B, as such parcels are described in the MOU; and

WHEREAS, the parties desire to amend the MOU to provide an enhanced level of fire and emergency services to Parcel B; and

WHEREAS, the proposed action of the Tribe is not a County project within the meaning of the California Environmental Quality Act (CEQA) and is not a project subject to the discretionary approval of the County and therefore is not subject to CEQA.

NOW, THEREFORE, the parties agree as follows:

1. Section 5 Amended and Restated. Section 5 of the MOU is hereby amended and restated in its entirety to read as follows:

"5. Fire Protection and Emergency Response Services. The Tribe recognizes that significant fire protection and emergency response services will be required by the Tribe's proposed developments of Parcels A and B, and that the scope of said services will be detailed in the mitigation called for by

the Placer County Environmental Review Ordinance, as determined by the Director of the Placer County Planning Department under Section 3.B above. The parties, however, have agreed to the general parameters of this mitigation for Parcel B as follows:

A. The Tribe shall: (1) provide a fire station of adequate size to reasonably address fire and emergency response needs on Parcel B, to be located on the western end of the Parcel with direct access to Athens Avenue; (2) reimburse the County for fire and emergency response services as outlined in Sections 5.B through 5.F herein.

B. The Tribe shall pay to County nine hundred twelve thousand and fourteen dollars (\$912,014.00) for staffing costs for the period from July 1, 2003 to June 30, 2004 (the "Annual Staff Payment"). The Tribe will make the Annual Staff Payment, as adjusted herein, for each July 1 to June 30 period for the duration of the term of this Agreement.

C. The Tribe shall pay to County eighty three thousand dollars (\$83,000.00) for operation and maintenance costs for the period from July 1, 2003 to June 30, 2004 (the "Annual O&M Payment".) The Tribe will make the Annual O&M Payment, as adjusted herein, for each July 1 to June 30 period for the duration of the term of this Agreement.

D. The Annual Staff Payment shall be adjusted annually based on the County's actual and reasonable costs of providing the staffing levels called for in this Agreement (the "Annual Staff Adjustment"). County shall document such costs and provide a written

estimate of such costs for the upcoming agreement year to the Tribe by June 1 of each year. County shall provide written evidence of actual and reasonable costs to the Tribe by the following March 1. The fourth quarter payment shall be adjusted accordingly to reflect the County's actual and reasonable costs for the agreement year.

E. The Annual O&M Payment shall be subject to an annual consumer price index adjustment based on the State of California Department of Industrial Relations Consumer Price Index - California For All Urban Consumers (the "Annual O&M Adjustment."). The Annual O&M Adjustment shall be calculated based on an April to April period. County shall provide written notice of the Annual O&M Adjustment to the Tribe by June 1 of each year.

F. The parties agree and acknowledge that the Annual Staff Payment identified herein is intended to pay for three (3) person staffing of the Parcel B fire station on a 24 hour, year-round basis, including a 24-hour advanced life support capability paramedic. Amounts due under this Section 5 shall be payable in advance on a quarterly basis. Installments shall be due on the last day of the preceding calendar quarter. Payments shall be made to: County of Placer, County Executive Office, 175 Fulweiler Ave., Auburn, CA 95603.

G. The County shall provide all of the fire apparatus and equipment necessary to operate and respond from the Tribe's station."

2. Waiver of Tribal Sovereign Immunity. The Tribe agrees to waive its sovereign immunity in favor of the County as to any dispute which arises out of this Amendment, pursuant to Emergency Services Agreement 22

the terms set forth in the MOU for enforcement. The Tribe's governing body shall execute a formal Resolution of Limited Waiver of Sovereign Immunity in the form attached as Exhibit 1.

3. No Third Party Beneficiaries. Except as may be provided in the MOU, this Amendment is not intended to, and shall not be construed to, create any right on the part of a Third Party to bring an action to enforce any of its terms.

4. No Other Effect on MOU. In all other respects not expressly addressed by this Amendment, the MOU remains in full force and effect. All notices to be sent pursuant to this Amendment shall be sent to the parties' respective notice addresses stated in Section 15 of the MOU, as such addresses may be changed from time to time.

WHEREFORE, IN WITNESS THEREOF, the parties hereby execute and enter into this Amendment with the intent to be bound thereby through their authorized representatives whose signatures are affixed below.

UNITED AUBURN INDIAN COMMUNITY

Jessica Tavares
Tribal Chairperson

Date

COUNTY OF PLACER

Jan Christofferson
County Executive

Date

Approved by Counsel for the United Auburn
Indian Community

Howard Dickstein, Esq.

Date

Approved by Counsel for the County of Placer

Date

County Counsel

EXHIBIT 1

United Auburn Indian Community

Tribal Resolution of
Limited Waiver of Sovereign Immunity

RESOLUTION NO. 03-__

Date of enactment: ____, 2003

WHEREAS: The Tribal Council is the governing body of the United Auburn Indian Community and authorized to act on behalf of said Tribe; and

WHEREAS: The Memorandum of Understanding (MOU) dated January 18, 2000 between the Tribe and the County of Placer ("County") provides for cooperative actions between the Tribe and County in conjunction with the development and operation by the Tribe of a gaming facility to be operated in accordance with the provisions of the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. § 2701, *et seq.* ("IGRA"); and,

WHEREAS: The MOU concerns a wide range of issues of concern to the Tribe and County, including fire and emergency services protection; and,

WHEREAS: The Tribe and County desire to amend the MOU to update the agreement between the parties regarding fire protection and related emergency services being provided to certain of the Tribe's lands.

THEREFORE BE IT RESOLVED, that the Tribal Council hereby adopts this Resolution of Limited Waiver of Sovereign Immunity through which it waives on a limited basis its sovereign immunity in favor of Placer County in conjunction with that certain "First Amendment to Memorandum of Understanding (Emergency Services Agreement)" dated ____, 2003 between the Tribe and Placer County, a copy of which is attached hereto as Exhibit A. (hereafter "Amendment No. 1")

BE IT FURTHER RESOLVED, that the Tribal Council specifically adopts such Amendment No. 1 and all of its terms.

BE IT FURTHER RESOLVED, that the Tribal Council specifically consents to the enforcement of the terms of Amendment No. 1 by Placer County in accordance with the provisions of Paragraphs 14 and 15 of the MOU, or otherwise, subject in all cases to the limitations in the MOU.

BE IT FURTHER RESOLVED, that the Tribal Council specifically limits this limited waiver of sovereign immunity to matters arising under and in connection with Amendment No. 1, and for no other purpose.

Emergency Services Agreement 25

BE IT FURTHER RESOLVED, that this limited waiver of sovereign immunity does not supersede or otherwise affect that certain Limited Waiver of Sovereign Immunity adopted by the Tribal Council in conjunction with the MOU.

CERTIFICATION:

On _____, 2003, this Resolution of Limited Waiver of Sovereign Immunity was approved at a duly noticed meeting of the Tribal Council and the vote was:

_____ FOR

_____ AGAINST

_____ ABSTAIN

Jessica Tavares
Chairperson

ATTEST:

Tribal Secretary/Treasurer